IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FOUR

:PRESENT:

THE HON'BLE DR JUSTICE MOTILAL B. NAIK
AND
THE HON'BLE MR JUSTICE DALAVA SUBRAHMANYAM

WRIT PETITION NO : **1406 of 2004**

Between:

M/s.Sagar Cements Limited, 8-2-472/B/2, Road No.1, Banjara Hills, Hyderabad-500 034, rep. by its Executive Director, Dr. S.Anand Reddy.

Petitioner
AND

1. The Union of India, rep.by its Secretary, Parliamentary Affairs, New Delhi.
2. The Union of India, Ministry of Finance, rep.by under Secretary to Government of India, New Delhi.
3. The Superintendent of Central Excise, O/o. Superintendent of Central Excise, Kodada Ranga, Kodada, Nalgonda District.

Respondents

Whereas the Petitioners above named through its counsel Mr. P. Srinivasa Reddy presented this Writ Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herewith, the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring;

that Chapter-V of the Finance Act,. 1994 (Central Act) as amended by Finance Act, 1997 and the retrospective and validation provisions in Section 116&117 of the Finance Act, 2000 and the Section 158 of Finance Act 2003 in so far as they seek to levy service tax on amounts paid to Goods Transport Operators for carriage of goods by road as ultravires Entry 56 of List-II of the VII Schedule to Constitution of India and hence unconstitutional; and

in any event declare provisions treating entire freight charges as liable to service tax as discriminatory and unconstitutional;

and consequently declare that the petitioner is not liable to pay any service tax as user of Goods Transport Service during the period 16-11-1997 to 2.6.1998.

And whereas the High Court upon hearing the arguments of Mr. P. Srinivasa Reddy Advocate for Petitioner ,and the Central Government Standing Counsel takes notice and seeks time for filing counter. directed issue of notice to the Respondent to show cause why this Writ Petition should not be admitted in the circumstances set out in the petition and the affidavit filed.

You viz :

1. The Secretary, Parliamentary Affairs, Union of India, New Delhi.
2. The under Secretary to Government of India, Ministry of Finance, union of india, New Delhi.
3. The Superintendent of Central Excise, O/o. Superintendent of Central Excise, Kodada Ranga, Kodada, Nalgonda District.

Contd..P.2

are directed to show cause on or before **24-2-2004** to which date the case stands posted as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this Writ Petition should not be admitted.

And it is further ordered that pending passing further orders there shall be stay . However, the stay order granted by this court would, however be subject to passing further orders in the writ Petition.

NOTE: Post on 24-2-2004 for Admission and for filing Counter.

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. The Secretary, Parliamentary Affairs, Union of India, New Delhi.
2. The under Secretary to Government of India, Ministry of Finance, union of india, New Delhi.
3. The Superintendent of Central Excise, O/o. Superintendent of Central Excise, Kodada Ranga, Kodada, Nalgonda District.
   (1 to 3 BY RPAD) along with a copy of Petition and affidavit
4. One Spare Copy

Skm

HIGH COURT

Dr. MBN,J &
DSM,J

DATED: 27-1-2004

NOTE : POST ON 24-2-2004 FOR
ADMISSION AND FOR FILING COUNTER

NOTICE BEFORE ADMISSION

W.P.NO: 1406/2004

SKM

DRAFTED ON: 30-1-2004

HIGH COURT

Dr. MBN,J & DSM,J

DATED: 27-1-2004

NOTE : POST ON 24-2-2004 FOR ADMISSION AND FOR FILING COUNTER

NOTICE BEFORE ADMISSION

W.P.NO: 1406/2004